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NO JS-6

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

EDWARD COTE,)	Case No. CV 10-02959 DDP (JCGx)
)	
Plaintiff,)	Order Granting Defendant Western
)	Medical Center's Motion to
v.)	Dismiss (Docket No. 3)
)	
CITY OF SANTA ANA et al.,)	[Motion filed on May 20, 2010]
)	
Defendants.)	
_____)	

This matter comes before the Court on Defendant Western Medical Center-Anaheim ("Defendant" or "Western Medical Center")'s Motion to Dismiss. Having reviewed the parties' moving papers, the Court GRANTS the Motion.

I. Background

Plaintiff Edward Cote ("Plaintiff") alleges that Defendants Western Medical Center and Dr. Ravinder Singh ("Singh"), a Western Medical Center employee, negligently held Plaintiff against his will without probable cause. (Compl. 18:21-25.)

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1 The relevant background facts are as follows.¹ At
2 approximately 8:30 p.m. on November 26, 2008, officers from the
3 Santa Ana Police Department responded to Plaintiff's home after he
4 placed a 911 call. (Compl. 5:15-18.) A physical altercation broke
5 out between Plaintiff and the officers responding to the call, and
6 the officers subsequently handcuffed Plaintiff and detained him in
7 a squad car outside his home for approximately three hours.
8 (Compl. 5:18-6:5.) Detective Sargent Bollinger then determined
9 that Plaintiff required a mental disorder evaluation pursuant to
10 California Welfare and Institutions Code § 5150.² (Compl. 6:10-
11 13.)

12
13 ¹ The Court takes the facts alleged in Plaintiff's
14 complaint as true, as it must in ruling on Rule 12(b)(6) motion to
dismiss. Vasquez v. Los Angeles County, 487 F.3d 1246, 1249 (9th
Cir. 2007).

15 ² California law provides that
16 When any person, as a result of mental disorder, is a danger
17 to others, or to himself or herself, or gravely disabled, a
18 peace officer, member of the attending staff, as defined by
19 regulation, of an evaluation facility designated by the
20 county, designated members of a mobile crisis team provided
21 by Section 5651.7, or other professional person designated by
the county may, upon probable cause, take, or cause to be
taken, the person into custody and place him or her in a
facility designated by the county and approved by the State
Department of Mental Health as a facility for 72-hour
treatment and evaluation.

22 Such facility shall require an application in writing stating
23 the circumstances under which the person's condition was
24 called to the attention of the officer, member of the
attending staff, or professional person, and stating that the
officer, member of the attending staff, or professional
person has probable cause to believe that the person is, as a
25 result of mental disorder, a danger to others, or to himself
or herself, or gravely disabled. If the probable cause is
26 based on the statement of a person other than the officer,
member of the attending staff, or professional person, such
27 person shall be liable in a civil action for intentionally
giving a statement which he or she knows to be false.
28 Cal. Welf. & Inst. Code § 5150.

1 The officers first transported Plaintiff to the University of
2 California-Irvine Medical Center. (Compl. 6:15-17.) They
3 subsequently transferred him to Western Medical Center sometime in
4 the late evening of November 26, 2008 or early morning of November
5 27, 2008. (Compl. 6:25-26.) Dr. Singh conducted an intake
6 interview and preliminary evaluation. (Compl. 7:4-16.) At
7 approximately 3:00 p.m. on November 27, 2008, Dr. Singh notified
8 Plaintiff that he did not meet the criteria for a § 5150 hold
9 (i.e., that there was not probable cause to believe that Plaintiff
10 posed a threat to himself or others as a result of a mental
11 disorder), but that he would not be released until the following
12 day because of Western Medical Center's policy against releasing
13 patients after 3:00 p.m. (Compl. 18:25-19:2.) Dr. Singh
14 eventually authorized Plaintiff's release sometime in the morning
15 of November 28, 2008. (Compl. 19:23-25.) Plaintiff alleges that
16 Western Medical Center was negligent in failing to release him
17 immediately upon concluding that a § 5150 detention was not
18 warranted.

19 Defendant subsequently reported Plaintiff's involuntary
20 detention to the California Department of Justice ("Cal DOJ").³
21 Cal DOJ later denied Plaintiff's application to purchase a gun on
22 the basis of the involuntary detention report that Defendant
23 submitted. (Compl. 20:12-15.) Plaintiff contends that Defendant's
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25 ³ Pursuant to California law, a facility holding an
26 individual for a § 5150 detention "shall immediately, on the date
27 of admission, submit a report to the Department of Justice . . .
28 containing information that includes, but is not limited to, the
identity of the person and the legal grounds upon which the person
was admitted to the facility." Cal. Welf. & Inst. Code §
8103(f)(2).

1 negligent mental health assessment, and subsequent inaccurate
2 report to Cal DOJ, resulted in a temporary restriction on his
3 ability to own, possess, or sell firearms. (Compl. 19:2-6.) He
4 further alleges that, as a result of the Cal DOJ report, he was
5 forced to bring a legal challenge to the firearm prohibition at his
6 own expense. (Compl. 19:2-6, 21:13-16.) He filed this action
7 against Western Medical Center, Dr. Singh, the City of Santa Ana,
8 Santa Ana Police Chief Paul M. Walters (in his official capacity),
9 and Santa Ana Police Officers Bollinger, Beatly, and Vargas (in
10 their official and individual capacities) on April 21, 2010.
11 Plaintiff's sole claim against Defendant Western Medical Center is
12 for negligence.

13 Defendant filed a Motion to Dismiss Plaintiff's negligence
14 claim on May 20, 2010 (Dkt. No. 3.) Plaintiff filed an Opposition
15 on June 7, 2010, (Dkt. No. 19), and Defendant filed a Reply, (Dkt.
16 No. 21), along with an Objection to Plaintiff's Opposition on June
17 11, 2010, (Dkt. No. 22).⁴

18 **II. Legal Standard**

19 In Ashcroft v. Iqbal, 129 S. Ct. 1937, 1949 (2009), the
20 Supreme Court laid out the following methodological approach for
21 testing the adequacy of a plaintiff's complaint:
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23 ⁴ Plaintiff's Opposition ran afoul of Central District
24 Local Rule 7-9, which requires that any opposition to a motion be
25 filed no later than 21 days prior to the designated hearing date.
26 Defendant's Motion to Dismiss was filed on May 20, 2010 and a
27 hearing date was set for June 21, 2010. Accordingly, Plaintiff's
28 response was due no later than June 1, 2010. Plaintiff filed his
Opposition on June 7, 2010 - one week too late. The Court will
consider Plaintiff's late filing for the purposes of ruling on
Defendant's Motion to Dismiss, but orders Plaintiff to comply with
Central District Local Rules, the Federal Rules of Civil Procedure,
and this Court's standing order in all future filings.

1 [A] court considering a motion to dismiss can choose to begin
2 by identifying pleadings that, because they are no more than
3 conclusions, are not entitled to the assumption of truth.
4 While legal conclusions can provide the framework of a
5 complaint, they must be supported by factual allegations.
6 When there are well-pleaded factual allegations, a court
7 should assume their veracity and then determine whether they
8 plausibly give rise to an entitlement to relief.

9 Id. at 1950. The complaint's "non-conclusory factual content, and
10 reasonable inferences from that content, must be plausibly
11 suggestive of a claim entitling the plaintiff to relief." Moss v.
12 U.S. Secret Serv., 572 F.3d 962, 969 (9th Cir. 2009) (internal
13 quotation marks omitted). "Where a complaint pleads facts that are
14 'merely consistent with' a defendant's liability, it 'stops short
15 of the line between possibility and plausibility of entitlement to
16 relief.'" Iqbal, 129 S. Ct. at 1949 (quoting Bell Atlantic Corp.
17 v. Twombly, 550 U.S. 544, 557 (2007)).

18 **III. Discussion**

19 Defendant moves to dismiss Plaintiff's negligence claim on
20 three alternative grounds: 1) the claim is time-barred; 2)
21 Defendant has statutory immunity to detain and evaluate Plaintiff
22 pursuant to California Welfare and Institutions Code §§ 5150, 5152,
23 5278; and 3) the Court lacks subject matter jurisdiction over the
24 state-law negligence claim because the claim does not arise from
25 the same facts as those underlying Plaintiff's federal claims
26 (i.e., his federal civil rights claims, pursuant to 42 U.S.C. §
27 1983, against the City of Santa Ana and several City of Santa Ana
28 Police Department employees). Because the Court concludes that
Plaintiff's negligence claim is time-barred, the Court does not
reach Defendants' alternative grounds for dismissal.

1 In California, the statute of limitations for a professional
2 negligence action against a health care provider begins to run
3 "three years after the date of injury or one year after the
4 plaintiff discovers, or through the use of reasonable diligence
5 should have discovered, the injury, whichever occurs first."⁵ Cal.
6 Civ. Proc. § 340.5. Because Western Medical Center satisfies the
7 statutory definition of a health care provider, see Cal. Civ. Proc.
8 Code § 340.5(1), § 340.5 provides the applicable statute of
9 limitations for Plaintiff's negligence claim.

10 In personal injury actions, California courts follow the
11 discovery rule, i.e., the rule "that the accrual date of a cause of
12 action is delayed until the plaintiff is aware of her injury and
13 its negligent cause." Jolly v. Eli Lilly & Co., 44 Cal.3d 1103,
14 1109 (1988). The limitations period generally begins to run "once
15 the plaintiff has notice or information of circumstances to put a
16 reasonable person on inquiry. A plaintiff need not be aware of the
17 specific 'facts' necessary to establish the claim" Id. at
18 1110-11.

19 According to Plaintiff's complaint, Dr. Singh notified him
20 that "she was going to let him go" and that he did not meet the
21 criteria for a § 5150 hold on November 27, 2008, sometime in the
22 afternoon. (Compl. 7:16-17, 18:25-26.) Plaintiff was then
23 notified that he would not be released immediately because of

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25 ⁵ "'Professional negligence' means a negligent act or
26 omission to act by a health care provider in the rendering of
27 professional services, which act or omission is the proximate cause
28 of a personal injury or wrongful death, provided that such services
are within the scope of services for which the provider is licensed
and which are not within any restriction imposed by the licensing
agency or licensed hospital." Cal. Civ. Proc. Code § 340.5(2).

1 Defendant's policy against releasing patients after 3:00 p.m.
2 (Compl. 19:1-2.) Such notice would cause a reasonable person to
3 suspect wrongdoing on Defendant's part. See Nelson v. Indevus
4 Pharmaceuticals, Inc., 48 Cal. Rptr. 3d 668, 671 (Ct. App. 2006)
5 (concluding that "[a] plaintiff has reason to discover a cause of
6 action when he or she has reason at least to suspect a factual
7 basis for its elements"). Further, the injury that Plaintiff
8 allegedly suffered - unnecessary involuntary detention -
9 unquestionably occurred no later than November 28, 2008.
10 Accordingly, the statute of limitations for Plaintiff's negligence
11 action began to run on November 27, 2008, or at the latest upon his
12 release from the hospital on November 28, 2008, and concluded on
13 either November 27, 2009 or November 28, 2009. Plaintiff's claim
14 against Defendant, filed on April 21, 2010, is therefore time-
15 barred.

16 Plaintiff's discovery of Defendant's report to Cal DOJ on July
17 3, 2009, and the contents of his psychiatric medical records on
18 November 2, 2009, is insufficient to toll the statute of
19 limitations. On November 28, 2008, Plaintiff suspected (or should
20 have suspected) that Defendant had unreasonably detained him beyond
21 the scope of its authority. "So long as a suspicion exists, it is
22 clear that the plaintiff must go find the facts; she cannot wait
23 for the facts to find her." Jolly, 44 Cal.3d at 1111.
24 Accordingly, the statute of limitations began to run when Plaintiff
25 had the initial suspicion that his detention was improper, not when
26 he discovered additional collateral facts that, at least arguably,
27 support his negligence claim.

28 **IV. Conclusion**

1 For the foregoing reasons, the Court GRANTS Defendant's Motion
2 to Dismiss with prejudice.

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4 IT IS SO ORDERED.

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7 Dated: June 23, 2010

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DEAN D. PREGERSON
United States District Judge